Ford v. *Ticknor,* 169 Mass. 276; *Collins* v. *Wickwire,* 162 Mass. 143; *Godshalk* v. *Akey,* 109 Mich. 350; *Evans* v. *Folk,* 135 Mo. 397; *Shapleigh* v. *Shapleigh,* 69 N. H. 577; *Hunt* v. *Smith,* 58 N. J. Eq. 25; *Wooster* v. *Cooper,* 53 N. J. Eq. 682; *Robinson* v. *Shotwell,* 55 N. J. Eq. 318; *In re Weeden's Est.,* 76 N. Y. S. 462; ROOD, WILLS, §§ 536, 544. When the estate to which the power is annexed is not strictly defined there is a rule which says that the power enlarges the estate to a fee. ROOD, WILLS, §§ 537, 543. But this rule is not without dispute. *Tyson's Est.,* 191 Pa. 218; ROOD, WILLS, § 547; *Mansfield* v *Shelton,* 67 Conn. 390. And where the estate given is a life estate by clear implication such estate is not enlarged by the power. ROOD, WILLS. § 543. The estate granted to the wife in the principal case, while not expressly given for life, may be construed as such by implication. Since a party having such a limited estate with a particular special power annexed, i. e. to sell for support, does not have an estate in fee, it seems that it should naturally follow that any sale made by such a party should be made expressly in pursuance of the power in order to bind the remaindermen. In other words the presumption should be that such a sale was not made for the purposes of the power, to be overcome only by an express declaration in the deed of sale that it was so made.

EASEMENTS—ADJOINING BUILDINGS—COMMON STAIRWAY—WAY OF NECESSITY.—G was the owner of lots 3 and 4. He erected a building on lot 4, and on the inside of the north wall, which was placed on the boundary line between the two lots, he built a stairway running to the second story. Some years afterwards he erected a building on lot 3, and in order to gain access to the second story thereof he so planned it as to use the stairway which had been erected on lot 4. The stairway was used continuously as a means of ingress and egress to the second stories of both buildings. G afterwards conveyed lot 3, and later conveyed lot 4 to another party. Held, that the grantee of lot 3 acquired an easement to the use of the stairway on lot 4; and that to maintain his right to such easement, he was not bound to show that it was a way of necessity. *Stephens* v. *Boyd,* (Iowa 1912), 138 N. W. 389.

For a discussion of the principals involved in this case see 11 MICH. L. REV. 252.

ELECTIONS—NUMBERING BALLOTS—CONSTITUTIONAL GUARANTY OF SECRECY OF BALLOT.—The plaintiff instituted proceedings to set aside the result of an election relative to the sale of intoxicating liquors in the defendant city.. The basis for the proceeding was that the ballots had been numbered by the election officers in such a manner as to make it possible to ascertain how each person voted, and that such distinguishing mark made the election void, being contrary to the constitutional provision "that all elections shall be by secret ballot." *Held,* that the numbering of the ballots by the election officers acting under the honest belief that the same was proper, and without any intention of destroying the secrecy of the ballot, or of ascertaining how any elector voted, does not vitiate the election even though in violation of the secrecy guaranteed by the constitution. *Hardy* v. *City of Beaver,* (Utah 1912) 125 Pac. 679.

The court's opinion presents an interesting anomaly by declaring that an unconstitutional act is not unconstitutional in the absence of intention to violate the constitution. The view that intention to violate and not a mere violation is the test, is sustained in *McGrane* v. *County of Nez Perce,* 18 Idaho 714, 112 Pac. 312, 32 L. R. A. (N. S.) 730, Ann. Cas. 1912 A. 165, where the precise question arose, the court saying, "—while such a ballot was not the secret ballot contemplated by the constitution, yet in view that the numbers were placed upon the ballots innocently and the voters accepted the ballots in good faith, believing them to be legal and in due form, the election was valid." And in *Pennington* v. *Hare,* 60 Minn. 146, 62 N. W. 116, it was said, "Where judges of elections, by reason of the mistake as to the law numbered the ballots of the electors without their knowledge, the ballots so numbered are legal and must be counted." The following cases approve the same doctrine on the principle that the voters should not be disfranchised by the misconduct of the election officials; *Lynip* v. *Buckner, 22* Nev. 426, 41 Pac. 762, 30 L. R. A. 354; *In re Town of Groton,* 118 N. Y. Supp. 417; *Perkins* v. *Bertrand,* 192 Ill. 58, 61 N. E. 405, 85 Am. St. Rep. 315; *Freshour* v. *Howard,* 142 Cal. 501, 77 Pac. 1101; *Farnham* v. *Boland,* 134 Cal. 151, 66 Pac. 200; *Carwile* v. *Jones,* 38 Mont. 590, 101 Pac. 153; *Town of Eufaula* v. *Gibson, 22* Okla. 507, 98 Pac. 565. But the court in *People ex rel. Sherman* v. *Persons,* 64 Hun. 327, said, "identifying marks on ballots will nullify secrecy even though put on by mistake and would be means of identfying votes, so votes should not be counted." *Woodward* v. *Sarsons,* L. R. 10 C. P. 733, 32 L. T. N. S. 867, held that marking the voter's number on the ballots at the time they were given out by the election officers made them void under statute prohibiting marks by which they could be identified. The court in *Sweeney* v.*Hjul,* 23 Nev. 409, 48 Pac. 1036, threw out a number of ballots on the ground that the electors were in fault for accepting them. However, where expressed statutory provisions were violated, the ballots are usually held void regardless of intention, as where ballots for election district No. 1 were used for district No. 2 (*People ex rel. Nichols* v. *Board of Canvassers,* 129 N. Y. 395, 29 N. E. 327, 14 L. R. A. 624; *Lippincott* v. *Felton,* 61 N. J. L. 291, 39 Atl. 646); election judges' initials were stamped on instead of written (*Berryman* v. *Megginson,* 229 Ill. 238, 82 N. E. 56, 120 Am. St. Rep. 237); initials put on wrong part of ballot (*People* v. *Rinehart,* 161 Mich. 585, 126 N. W. 704); ballots not on plain white paper, (*Catlett* v. *Knoxville Ry.* 120 Tenn. 699, 112 S. W. 559); space between candidates names less than that required by statute, (*Perkins* v. *Carraway,* 59 Miss. 222).

EVIDENCE—ADMISSIBILITY OF EVIDENCE OF PRIOR SIMILAR ACCIDENTS.—In an action for personal injuries due to defendant's alleged negligence in failing to provide a suitable stairway, the court refused to allow the following question: "How many times per day while you were standing in the rear of that theatre did you find people stumbling across that place?" On appeal by plaintiff, held, that "it now stands as the law in this state that evidence of prior similiar accidents in the same place, the conditions being shown to remain unchanged, is admissible to prove both notice of the defect and